

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

KAISER ALUMINUM WARRICK, LLC, a
Delaware limited liability company,

Plaintiff,

vs.

US MAGNESIUM, LLC, a Delaware limited
liability company,

Defendant.

NOTICE OF MOTION TO DISMISS

Civil No. 1:22-CV-03105-JGK

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law and all other pleadings and proceedings in this case, Defendant US Magnesium, LLC (“US Mag”), by and through its counsel, Blank Rome LLP and Burbidge Mitchell, will move this Court before the Honorable John G. Koeltl, United States District Judge, at the United States Courthouse located at 500 Pearl St., New York, NY 10007, Courtroom 14A, on a date and time designated by the Court, for an Order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing portions of Plaintiff Kaiser Aluminum Warrick, LLC’s (“Kaiser”) April 14, 2022, Amended Complaint—specifically, Kaiser’s claims for (i) incidental and consequential damages, (ii) cover damages in excess of the parties’ contractual limitation on such damages, and (iii) attorneys’ fees—and granting US Mag such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 20, 2022

BLANK ROME LLP

By: /s/ Martin S. Krezalek
Martin S. Krezalek

1271 Avenue of the Americas
New York, New York 10020
(212) 885-5000

BURBIDGE | MITCHELL

Richard D. Burbidge (admitted *pro hac vice*)
Beau R. Burbidge (admitted *pro hac vice*)
Carolyn LeDuc (admitted *pro hac vice*)
Michael S. Henderson (admitted *pro hac vice*)
215 South State Street, Suite 920
Salt Lake City, UT 84109
(801) 355-6677

Attorneys for Defendant US Magnesium, LLC